IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY SEVENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 13086 of 2004

Between:

1. Nagamani, W/o. K.Venkataramana,
   R/o. Iskala Village, Pamulapadu Mandal, Kurnool District.
2. Leelavathi, W/o. Mekala Lingaswamy,
   R/o. Iskala Village, Pamulapadu Mandal, Kurnool District.
3. Sujatha, W/o. Samanna,
   R/o. Iskala Village, Pamulapadu Mandal, Kurnool District.
4. Noorum Bee, W/o. Khaja Hussan,
   R/o. Iskala Village, Pamulapadu Mandal, Kurnool District.
5. K. Pullamma, W/o. K. Peddaswamy,
   R/o. Iskala Village, Pamulapadu Mandal, Kurnool District.
6. Nimmakayala Pedda Baseerun Bee, W/o. Baneeramadh,
   R/o. Iskala Village, Pamulapadu Mandal, Kurnool District.

... PETITIONERS

AND

The Mandal Revenue Officer,

Pamulapadu Mandal, Kurnool District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ of direction declaring the action of the respondent in not allotting the house sites to the beneficiaries as per the approved list of the Assignment Committee and seeking to allot the house sites other than the members placed in the list of beneficiaries as illegal and arbitrary and consequently direct the respondent to allot the plots as per the list of beneficiaries approved by the Assignment Committee.

Counsel for the Petitioner: MR.P.GANGA RAMI REDDY

Counsel for the Respondent: GP FOR REVENUE

The Court made the following:

THE HON'BLE MS. JUSTICE G. ROHINI

W.P.No.13086 of 2004

ORDER:

The petitioners, six in number, seek a writ of mandamus declaring the alleged action of the respondent-Mandal Revenue Officer, Pamulapadu Mandal, Kurnool District, in not allotting house sites to the beneficiaries as per the list approved by the Assignment Committee and proposing to allot the house sites to other than the members placed in the list of beneficiaries, as arbitrary and illegal.

In the affidavit filed in support of the writ petition it is stated that in pursuance of a representation made by the petitioners and other economically backward class members requesting for allotment of house sites, the Government purchased Ac.7.72 cents of land covered by Sy.Nos.571, 351 and 348 of Iskala Village, under private negotiations and thereafter the said land was made into 266 plots, out of which 38 plots have been reserved for public purpose. It is also stated that a Committee consisting of the local M.L.A. as Convener and the Mandal Revenue Officer, Panchayat Secretary, Sarpanch, M.P.T.C. Member of the village and Secretary of Podupulakshmi Sangham as members

has been constituted for the purpose of selection of the eligible persons for allotment of the house sites and the said Committee has selected 223 eligible persons for allotment of house sites and approved the list of beneficiaries on 06-01-2004. In pursuance thereof the house site pattas were also prepared in the names of the selected persons and 60 members out of the list of beneficiaries were allotted the house sites on
04-02-2004. At that stage, further proceedings were stopped, in view of the elections proposed to the Parliament and Legislative Assembly. After elections were over, the petitioners, who are among the beneficiaries as per the list approved, approached the respondent requesting for allotment of house sites. However, the respondent on one pretext or other has been postponing the allotment of the house sites. The petitioners reliably understand that at the instance of the political leaders of the village, belonging to the ruling party, the respondent is contemplating to allot the house sites to the persons whose names are not included in the list of beneficiaries in the approved list. Hence, this writ petition, seeking a declaration that the said action of the respondent is arbitrary and illegal.

Learned counsel for the petitioners submits that the petitioners as well as other members whose names are included in the list belong to economically backward class and their names were included in the approved list by the Assignment Committee after being satisfied as to their eligibility for allotment of house sites. He contends that since the land was acquired by the Government at the instance of the petitioners and other similarly situated persons, and their names were also included in the approved list of beneficiaries, the respondent ought to have allotted the house sites to all the beneficiaries and any deviation from the approved list of the beneficiaries is arbitrary and illegal.

The respondent-Mandal Revenue Officer, filed a counter affidavit stating that a lay out plan was prepared with 266 plots by earmarking 38 plots for communal purpose. The Secretary of Iskala Village prepared the list of 223 beneficiaries for allotment of house site pattas. However the Assignment Committee did not approve the list of beneficiaries. It is also stated that though pattas were prepared on 03-02-2004 for distribution in “KOTIVARAALU” Programme on 04-

02-2004 at Atmakur town, the pattas could not be distributed on that day subsequently 60 pattas were distributed, during which, some villagers raised objections stating that ineligible persons are included in the list of beneficiaries and requested to re-enquire into the matter. Meanwhile, since the elections intervened, the issuance of pattas was stopped for sometime. Thereafter on an enquiry into the objections raised with regard to the eligibility of the persons included in the list of beneficiaries, 83 persons out of 223 including the petitioners herein were found to be ineligible. Since the petitioners are having pucca houses in the Iskala Village, they were found to be ineligible for assignment. The allegation made by the petitioners that at the instance of the rival political group the respondent has not granted the pattas to the petitioners has been categorically denied and it is stated that the W.P. is misconceived and liable to be dismissed.

From the pleadings of the respective parties as noted above it is clear that though the names of the petitioners were included in the list of beneficiaries, subsequently their names along with some others have been deleted on the ground that they are ineligible for assignment. Though in the counter affidavit filed by the respondent-Mandal Revenue Officer, it is stated that on through enquiry it is found that the petitioners have pucca houses in the village and thus they are found to be ineligible for assignment, it is not in dispute that the petitioners were not given any opportunity to rebut the allegations before concluding that they are not eligible for assignment.

Learned counsel for the petitioners has placed before this Court a list of beneficiaries which includes the names of the six petitioners herein and states that the said list has been actually approved by the members of the Assignment Committee and therefore, it is not open to the Mandal Revenue Officer to delete the names of the petitioners from the said list without affording any opportunity to the petitioners.

Having regard to the nature of controversy involved and particularly keeping in view of the fact that the names of the petitioners were admittedly figured in the list of beneficiaries initially prepared and subsequently their names were

deleted without notice to them, I am of the view that the matter requires consideration afresh after affording due opportunity to the petitioners to explain the allegation that they are not eligible for assignment.

In the result, the writ petition is disposed of, with a direction to the District Collector, Kurnool, to enquire into the matter either by himself or by deputing some other responsible officer and to ensure that the list of beneficiaries has been prepared in accordance with the scheme under which the house sites were proposed to be assigned in Iskala Village. Such enquiry shall be completed as expeditiously as possible, preferably within a period of six weeks from the date of receipt of a copy of this order after affording due opportunity to the petitioners herein to explain the allegation that they are not eligible for assignment. Till such exercise is completed, the respondent shall not make any allotment of the house sites in Iskala Village.

The Writ Petition is accordingly disposed of. No costs.

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G. ROHINI, J

Dated: 27th December, 2004

LSK

To

1. The Mandal Revenue Officer,

Pamulapadu Mandal, Kurnool District.

2. Two C.Cs. to the Government Pleader for Revenue,

High Court Buildings, Hyderabad. (O.U.T.)

3. Two C.D. copies.